

COPY

MEMORANDUM

To: Samuel E. Hull, Chief
Office of State Audits and Evaluations
Department of Finance
915 L Street
Sacramento, CA 95814-3706

Date: August 14, 2000

From: 
Ralph E. Chandler, Executive Director
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Subject: MANAGEMENT LETTER-USED OIL RECYCLING FUND OPERATIONS
RESPONSE

The purpose of this memorandum is to provide you with a response to the Management Letter issued for the Used Oil Recycling Fund dated July 20, 2000. Although, as you have pointed out, the grant program is largely successful in achieving its goals, we appreciate the efforts of you and your audit staff in identifying areas for program improvement.

Our responses to the issues identified in the Management Letter are as follows:

Issue A1: Incomplete Grant Contract Terms

The IWMB concurs that all grant Administrative Procedures and Requirements and Terms and Conditions should be enforced. Any deviations will be documented, approved in writing by the grant manager, and included in the grantee's file. Program management will implement a review process to ensure that grantees have complied with the grant terms. Staff will utilize a check list process to fulfill this responsibility. It should be noted that this issue is a discussion item only and not an audit finding. The discussion item developed as a result of the UBG4 streamlined application process in 1996/1997 for three of the four identified grantees. During this application process, IWMB did not require the grantee to identify goals and/or tasks, nor require them to provide a budget. However, IWMB recognizes that the implementation of the above process will strengthen the grant program.

Issue A2: Incomplete Progress Reports

The IWMB concurs that not requiring grantees to report on their progress impairs our ability to effectively oversee grant expenditures or assess the achievement of program goals. Therefore, as of June 30, 1999 the grant Administrative Procedures and Requirements were modified to strengthen our administrative control in this area. Grantees now must submit reports to the IWMB every six months. The grant manager documents the receipt and approval dates in the IWMB's database (GRATIS). Failure of any jurisdiction to satisfactorily implement their

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oil-recycling program or comply with reporting requirements will result in future funding being withheld. In addition, effective July 2000 the Grants Administration Unit began issuing a "reminder" memo to the Grant Manager 90 days prior to the expiration date of an agreement. This memo requests the Grant Manager to review the grant file to ensure that the grantee has complied with all the terms and conditions of their agreement. Upon expiration of the grant agreement, the Grant Manager receives a notification. At which point, a standardized close out process must be followed. Again, it should be noted that this issue is a discussion item only and not an audit finding.

Issue A3: Unauthorized Budget Revisions

IWMB concurs that any deviation from the grant provisions should be documented in writing, approved by the grant manager, and included in the grantee's file. Thus, the Procedures and Requirements for the Used Oil Recycling Block Grants (Fifth Cycle) were amended as of June 30, 2000 incorporating this requirement. The amendment allows exceptions on a case by case basis, approved in writing by the grant manager, and maintained by the grantee for audit purposes. In addition, the importance of this requirement and the establishment of the internal procedure have been communicated to all grant managers. A copy of the approved exception will be maintained at the IWMB and placed in the grantee's file. Further, the Used Oil Recycling Program Manager will continually evaluate the performance of the grant manager's to ensure adherence to this procedure.

Issue A4: Unauthorized Advertisements

IWMB concurs that prior approval must be obtained for public education, advertising, and promotional materials. Refer to Issue A3 above.

Issue A5: Retention Fees Not Withheld

IWMB did not comply with the terms of the Standard Grant Agreement and Administrative Procedures and Requirements. The current grant policy requires IWMB to withhold ten percent of the grant funds until approval of the final report and payment request. With respect that some grantees are only requesting 90 percent or less of their grant award, it is financially prudent for IWMB to modify this policy. Therefore, the fee retention policy will be modified to include ten percent retention being applied to each payment request for all future grants. In addition, the Accounting office will audit payment requests to ensure adherence to this policy. Once grantees have complied with all grant requirements, the ten percent retention will automatically be released.

Issue A6: Reimbursement of Ineligible Expenditures

Although the ineligible expenditures are immaterial in relation to the total grant funds tested relative to this issue, the IWMB concurs that controls must be strengthened in this area and has taken steps to ensure expenditures are incurred within the grant period, supported by an invoice, and claimed only once. We recognize that the language in prior grant agreements was ambiguous as it relates to the recognition of when costs could be incurred and/or paid. Therefore, the Procedures and Requirements for the Used Oil Recycling Block Grants (Fifth

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Cycle) were amended as of June 30, 2000 as follows: "Goods and services must be paid for and received within the term of the grant agreement." Further, all expenditures must be directly related to the program, supported by an invoice or timesheet that clearly denotes grant related hours, or funds must be repaid to IWMB.

Issue B: The Board inadequately monitored the distribution of advanced grant funds.

The IWMB respectfully disagrees with the recommendation to revise grant agreements to allow fund advances only when specifically authorized and necessary for the achievement of grant objectives. Advancement of funds was authorized for the Used Oil Recycling Grant Program only upon due consideration and the implementation of safeguards. The advance payments were authorized based on the following reasons:

First, the State Contract Manual section 7.32 "Advance Payment" which prohibits advance payments unless specifically authorized by statute, references as its authority Government Code §§ 11256-11263 and 11019. These sections relate to service contracts. Grant agreements are not service contracts (47 Ops.Cal.Atty.Gen. 11 (1966).

Second, the Used Oil Block Grant is a non-discretionary grant. "The Board shall make a grant to every local government which submits a (used oil collection) program and files a report unless the board finds that the program or its implementation does not comply with criteria in this article" (emphasis added) (PRC § 48690). The required annual report shall include a "description of all measures taken to implement the program, and a description of how the block grant was expended" (PRC §48674).

The eligibility criteria requiring submittal of a used oil collection program is a one-time requirement. All grantees have complied with it. The eligibility criteria regarding filing of an annual report is operative only after the previous grant cycle funds have been expended, thus, compliance with the requirement can be determined prior to advancement of funds. Therefore, with the fulfillment of these eligibility criteria, the grantee is entitled to the grant.

Third, the Board imposes the following financial safeguards:

- 1) the funds must be maintained in a separate interest bearing account;
- 2) all interest must be applied to the grant program or returned to the Board;
- 3) the Board requires detailed reports on how the funds are spent;
- 4) the Board has financial-records review authority at any time; and
- 5) grantees are required to retain their financial records for at least three years for audit purposes.

The IWMB concurs with the provision for retaining at least 10 percent of the total grant funds awarded until all conditions stipulated in the grant agreement have been satisfied. Therefore, a ten percent retention will be applied to all future Used Oil Block Grants.

If you have any questions or require additional information, please contact Debbra Garrett, Manager of the Financial Assistance Branch at 255-2242.